



Guideline

Sales Tax Drugstores

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Tax Commissioner

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All sales of tangible personal property by a drugstore are taxable under the general sales tax law unless exempted by a specific sales tax statute. The most common exemptions are as follows:

Prescription Drugs

The sales of drugs sold under a doctor's prescription for human consumption or use are not taxable. Drugs, including over-the-counter drugs, purchased without a doctor's prescription are taxable.

Oxygen

The sales of oxygen to any person for medical purposes are exempt if sold under a doctor's prescription.

Durable Medical Equipment

The sale of durable medical equipment, including repair and replacement parts for such equipment, intended for home use is exempt from sales tax provided the equipment (1) can withstand repeated use, (2) is primarily and customarily used to serve a medical purpose, (3) is generally not useful to a person in the absence of illness or injury, and (4) is not worn in or on the body.

- Durable medical equipment includes equipment and devices designed or intended for ostomy care and management and equipment and devices used exclusively for a person with bladder dysfunction.

Mobility-Enhancing Equipment

The sale of mobility-enhancing equipment, including equipment and repair or replacement parts, for mobility-enhancing equipment, is exempt from sales provided the mobility-enhancing equipment (1) is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle, (2) is not generally used by persons with normal mobility, and (3) does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

- Mobility-enhancing equipment include crutches and wheelchairs for the use of disabled persons, equipment, including manual control units, van lifts, van door opening units, and raised roofs for attaching to or modifying a motor vehicle for use by a permanently physically disabled person, equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling, and equipment, including manual control units for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.

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Prosthetic Device

The sale of a prosthetic device that is a replacement, corrective, or supportive device worn on or in the body is exempt from sales tax provided the device (1) artificially replaces a missing portion of the body, (2) prevents or corrects a physical deformity or malfunction, or (3) supports a weak or deformed portion of the body.

- Prosthetic device includes artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure, including the extremities of the individual, artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body, artificial teeth sold by a dentist, and eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.

Diabetic, Bladder Dysfunction and Ostomy Equipment and Supplies

The sales of diabetic, bladder dysfunction and ostomy equipment and supplies are exempt.

- a) Insulin and diabetic equipment and supplies, such as hypodermic syringes and needles, sugar (urine and blood) testing equipment and materials purchased by diabetics are exempt.
- b) Bladder dysfunction and ostomy equipment and supplies used in bladder dysfunction and ostomy care including, but are not limited to, ostomy bags, discs, tubes and belts, cements and removers, powders, germicides, incontinent pads and adult diapers are exempt.

Food and Food Products

Most food and food products are not taxable. However, sales tax is due on the sale of candy, chewing gum, carbonated soft drinks and other generally recognized soft drinks (including fruit drinks which contain 50 percent or less pure fruit juice), cigarettes and tobacco products. Sales of vitamins, dietary supplements and adjuncts sold in liquid, powdered, granular, tablet, capsule, lozenge and pill form are taxable.

All food sold in a luncheon area or in a restaurant is regarded as sold for *immediate consumption* and is taxable.

Magazines and Newspapers

Magazines sold at newsstands and over the counter are subject to sales tax. North Dakota's exemption regarding magazines applies only to subscriptions. Sales of newspapers are exempt from sales tax whether sold over the counter or through subscriptions.

Photo Finishing

Many stores act as film collection centers where their customers may drop off film for photo finishing. Charges for photo finishing and for the finished prints or slides are subject to sales tax. Stores must charge sales tax on the total charge for photo finishing prints, slides or movie film.

Purchases Subject to Tax

All stores are required to pay sales or use tax on purchases of equipment and supplies for their own use. Examples of these items include: cash registers, file cabinets, light bulbs, paper towels, cash register and tape. If these items are purchased from a supplier who holds a North Dakota sales and use tax permit, sales tax should be paid directly to the supplier. If these items are purchased from a supplier who does not charge North Dakota sales tax, the buyer must include the cost of the purchases on the *Items Subject to Use Tax* line of the North Dakota Sales and Use Tax Return and remit use tax on those items directly to the Office of State Tax Commissioner. Any items originally purchased for resale but subsequently used or consumed by the store also should be reported for use tax purposes.